

7. Intellectual Property Rights (IPR)

7.1. Fight against Counterfeiting and Piracy

“Growing global piracy and counterfeiting threatens the competitiveness of innovative industries, the livelihoods of creative artists and workers, and the health and safety of consumers in the European Union, the United States and beyond. We are committed to effectively combating piracy and counterfeiting at home and abroad” (2005 EU-US Economic Initiative)

At the 2005 EU-US Summit, leaders agreed that working more effectively among ourselves to combat piracy and counterfeiting is a priority. Leaders highlighted our commitment to strengthen cooperation by:

- Promoting Strong and Effective Enforcement Internally and at our Borders;
- Strengthening Cooperation to Reduce Global Piracy and Counterfeiting; and
- Fostering Public-Private Partnerships to Protect Intellectual Property.

Objectives

An IPR Enforcement Cooperation Strategy and report on actions taken to date will be produced for the 2006 EU-US Summit.

A working group is being established to develop the strategy, and using existing channels where appropriate, by focusing on:

- customs cooperation/border enforcement,
- strengthening cooperation with and in third countries through coordinated training and diplomatic efforts with respect to enforcement,
- public private partnerships and awareness; and,
- relevant aspects of work on enforcement done in other fora (like Asia-Pacific Economic Cooperation (APEC) guidelines, EU and Member State IPR strategies).

The working group will be named by January 30, 2006.

Specific Activities

The working group should consider the following and additional ideas, consistent with the Summit Statement “EU-US Working Together to Fight Against Global Piracy and Counterfeiting”, in preparing the IPR Enforcement Cooperation Strategy.

Customs Cooperation/Border enforcement.

1. Cooperation on a Border Security Initiative: Working cooperatively on a specific enforcement initiative to help build networks among border security agencies, facilitate sharing and concrete application of effective border enforcement techniques, generate lessons learned, and provide measurable results of reducing counterfeiting through enforcement. Customs officials should focus on specific goods.

2. Consensus on a Best Practice for IPR Detection: Exchange new innovative border enforcement techniques to supplement current customs IPR efforts and provide an opportunity for participants to consider comparable programs within their own systems. Exchange of ideas in this venue could encompass the sharing of best practices, lessons learned and relevant operational programs with the goal of cooperating on a joint-effort that will strengthen the targeting of IPR infringing products.

3. Increased Information Exchange on Border IPR Enforcement: This could be accomplished in the framework of the EC-US Customs Co-operation agreement via a regular exchange of information.

The above work would be handled through the Joint Customs Cooperation Committee, a forum that is already established to direct customs cooperation, and that is developing a joint EC-US strategic plan for Customs enforcement activities which would be incorporated in the broad IPR Enforcement Cooperation Strategy envisioned herein.

Strengthening Cooperation and Enhancing IPR Enforcement in third countries.

4. Collaborating on technical assistance: Exchange of information on assistance efforts aimed at strengthening IP systems and enforcement. Cross-participation in seminars and training, when appropriate, will help to enhance awareness on intellectual property enforcement and to better use existing resources. Topics to discuss will focus in particular on effective law enforcement, border enforcement and examples of best practices for training judges, prosecutors, investigators and administrators. Such information exchange should also cover sharing assessments regarding the institutional capacity of the countries concerned and ways to enhance their commitment to enforcement measures

5. Collaboration and coordination regarding third countries: Coordinate efforts on a common enforcement message, sent through diplomatic channels. Efforts could be joint where beneficial or merely coordinated bilaterally.

6. Collaboration in the Trade Related Intellectual Property Services (TRIPS), World Intellectual Property Organisation (WIPO) and WCO frameworks: Exchange information and explore mutual support on enforcement related initiatives in the framework of TRIPs. We will constructively consider modalities for enhanced and effective European Community participation in WIPO/WCO activities relating to intellectual property rights enforcement.

Public-Private Partnerships and Awareness.

7. Enhancing Industry/Government Cooperation and Information-sharing: Using joint industry/government anti-counterfeiting and anti-piracy groups, such as the Trans-Atlantic Business Dialogue (TABD) IPR Working Group to provide the business sector with regular access to government, create opportunities to share information and work together to fight against IP theft, and help ensure that overall efforts are complementary. Governments could also partner with private sector organizations to publish online comprehensive information on securing and protecting IP rights to assist domestic rights holders in navigating their own government's resources, and to provide greater transparency for foreign rights holders. The United States' www.StopFakes.gov, as well as the European Commission's IPR Enforcement Survey, whose results will soon be published are possible examples.

Measuring progress:

- Possible mutual support for the respective initiatives.
- Number of exchanges (operational information/risk management techniques/officials) and possibly increased customs seizures)
- Number of coordinated enforcement messages
- Contacts with all relevant stakeholders.

Defining Goals for the 2006 Summit:

Endorsement of the IPR Enforcement Cooperation Strategy and report on actions taken to date.

Timelines:

- JCCC meeting in early 2006
- Working Group to prepare overall strategy named by January 30, 2006
- Strategy drafted by April/May 2006
- EU-US Summit

7.2. International Substantive Patent System

"To enhance the effectiveness and efficiency of the patent system more generally, the EU and the US will work together to ensure progress in international fora"(2005 EU-US Economic Initiative)

Objectives:

Enhance the effectiveness and efficiency of the patent system generally to promote innovation, employment and competitiveness, building on the good contacts which are already underway.

Specific Activities

Enhance exchange of views on how to best move forward to arrive at an effective and efficient international substantive patent law system. This includes cooperation within WIPO and support of the plurilateral "Alexandria process".

Measuring progress

- Number of bilateral meetings (including video conferences) on the above issues.
- Contacts between officials involved on both sides of the Atlantic.

Contacts:

- US Lead: USPTO
- EU Lead: DG MARKT